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CLEARINGHOUSE RULE 97-016

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. In the treatment clause to SECTION 2, “(12)” should replace “(13).”
- b. Section NR 18.01 (13) uses the phrase “nonresident falconers,” but neither the current rule nor the proposed rule define the term “falconer.”
- c. Section NR 18.03 (3) should be rewritten in the active voice. For example, it could begin: “No person may engage in any falconry activity unless the person has in his or her possession” In addition, s. NR 18.12 (11) should be written in the active voice. For example, it could begin: “No person may give or transfer” Also, s. NR 18.13 (1) (b) 1. should be rewritten in the active voice, to begin: “A permittee shall inform” The entire rule should be reviewed to ensure that it uses the active voice. [s. 1.01 (1), Manual.]
- d. In s. NR 18.03 (2), it is not clear why the word “valid” is needed.
- e. In s. NR 18.06 (1) (c) and (2) (c), should “falconry” be inserted before “facilities”?
- f. In s. NR 18.06 (2) (e), the phrase “(i)nclude with the application for a nonresident raptor training permit” should be deleted for consistency with the other paragraphs in sub. (2). In addition, reference is made to “valid state/federal falconry permit.” Slashed alternatives should be avoided in drafting administrative rules. Either “state or federal” or “state and federal” should be substituted for “state/federal.”

g. It is suggested that in s. NR 18.07 (2) (a) (intro.), 1. and 2., references to “mews” and “weathering areas” be deleted and placed in notes following subd. 2. Parenthetical material should be avoided in administrative rules. [s. 1.01 (6), Manual.]

h. In several provisions of the rule, introductory material should include a phrase such as “any of the following” or “all of the following.” The subunits that follow should end with periods, including the next-to-the-last subunit, which often ends with the word “and” or “or.” For example, in s. NR 18.09 (intro.), “any of the following” should be inserted before the colon. Periods should replace semicolons and the word “or” in all of the subsections that follow. This error should be corrected throughout the rule. [s. 1.03 (intro.), Manual.]

i. It is inappropriate drafting style to repeal an entire subunit of a rule by striking the material in that subunit. Therefore, in s. NR 18.10, the paragraphs or subdivisions that are being repealed should be mentioned in a separate treatment clause that indicates that those paragraphs and subdivisions are being repealed. Section NR 18.10 (1) (d) could be repealed and recreated, since new material is being created in this paragraph to replace the old material.

j. In s. NR 18.12 (13), in the second sentence, “birds” should replace “girds.”

4. Adequacy of References to Related Statutes, Rules and Forms

a. The second sentence in s. NR 18.12 (3) (a) begins “(e)xcept as provided in sub. (2).”. However, it does not appear that sub. (2) sets forth exceptions to sub. (3).

b. The cover report to the Legislative Council Rules Clearinghouse cites statutes as authorizing promulgation of the rule and as being interpreted by the rule that are different than the statutes cited in the analysis prepared by the department. These should be made consistent. In addition, the report to the Legislative Council Rules Clearinghouse cites s. 29.177 (3), Stats., as authority for promulgation. This statute does not exist.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 18.07 (1) requires the department to conduct an inspection “(u)pon receipt of an application.” Within what time frame is the department required to conduct the inspection?

b. At the end of the first line of s. NR 18.12 (3) (b), “to” should replace “and.” In addition, it appears that this paragraph is identical to s. NR 18.12 (6) (b). Can one of these paragraphs be deleted?

c. In s. NR 18.12 (5), “a” should be inserted before “scientific”; in sub. (7), “a” should be inserted before “permittee.”

d. Section NR 18.12 (4) (a) refers to “a numbered fish and wildlife service leg band.” Subsection (14) refers to “a numbered seamless band provided by the fish and wildlife service.” Section NR 18.15 refers to “A standard federal bird band.” Are these provisions all referring to the same thing? If so, one term should be used consistently.